

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:11CR297
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
JOSE CHAIREZ-RANGEL,)	
)	
Defendant.)	

The Court has received the Revised Presentence Investigation Report ("PSR") in this case. The parties have not objected to the PSR.¹ See Order on Sentencing Schedule, ¶ 6. The government adopted the PSR. (Filing No. 25.) The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The Defendant filed a sentencing memorandum and motion for downward departure, deviation or variance. The plea agreement states: "The parties agree that defendant may not request or recommend additional downward adjustments, departures, including criminal history departures under U.S.S.G. § 4A1.3, and sentence reductions under 18 U.S.C. § 3553." (Filing No. 23, at 6.) To the extent that the motion requests a departure, deviation or variance precluded by the plea agreement, it is denied.

IT IS ORDERED:

1. The parties are notified that my tentative findings are that the PSR is correct in all respects;

¹The Defendant objected informally to the Probation Officer, according to the Addendum to the PSR. However, because the objection was not filed with the Court as required in ¶ 6 of the Order on Sentencing Schedule, the objection was waived.

2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 2 of this Order, my tentative findings may become final;

4. To the extent that the Defendant's motion is a request for a departure, deviation or variance precluded by the plea agreement, the motion (Filing No. 24) is denied; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 31st day of January, 2012.

BY THE COURT:

s/ Laurie Smith Camp
Chief United States District Judge